

## § 173.22a

§178.601(1), and retained as prescribed in paragraph (a)(4)(ii) of this section.

(b) No person may offer a motor carrier any hazardous material specified in 49 CFR 385.403 unless that motor carrier holds a safety permit issued by the Federal Motor Carrier Safety Administration.

(c) Prior to each shipment of fissile radioactive materials, and Type B or highway route controlled quantity packages of radioactive materials (see §173.403), the shipper shall notify the consignee of the dates of shipment and expected arrival. The shipper shall also notify each consignee of any special loading/unloading instructions prior to his first shipment. For any shipment of irradiated reactor fuel, the shipper shall provide physical protection in compliance with a plan established under:

(1) Requirements prescribed by the U.S. Nuclear Regulatory Commission, or

(2) Equivalent requirements approved by the Associate Administrator.

[Amdt. 173-100, 42 FR 2689, Jan. 13, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §173.22, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

### § 173.22a Use of packagings authorized under special permits.

(a) Except as provided in paragraph (b) of this section, no person may offer a hazardous material for transportation in a packaging the use of which is dependent upon an exemption or special permit issued under subpart B of part 107 of this title, unless that person is the holder of or a party to the exemption or special permit.

(b) If an exemption or special permit authorizes the use of a packaging for the transportation of a hazardous material by any person or class of persons other than or in addition to the holder of the exemption or special permit, that person or a member of that class of persons may use the packaging for the purposes authorized in the exemption or special permit subject to the terms specified therein. Copies of exemptions and special permits may be obtained by accessing the Hazardous Materials Safety Web site at [http://](http://www.phmsa.dot.gov/hazmat/regs/sp-a)

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[www.phmsa.dot.gov/hazmat/regs/sp-a](http://www.phmsa.dot.gov/hazmat/regs/sp-a)” or by writing to the Associate Administrator for Hazardous Materials Safety, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, Attention: Records Center.

(c) When an exemption or special permit issued to a person who offers a hazardous material contains requirements that apply to a carrier of the hazardous material, the offeror shall furnish a copy of the current exemption or special permit to the carrier before or at the time a shipment is tendered.

[70 FR 73165, Dec. 9, 2005, as amended at 72 FR 55692, Oct. 1, 2007; 76 FR 56315, Sept. 13, 2011]

### § 173.23 Previously authorized packaging.

(a) When the regulations specify a packaging with a specification marking prefix of “DOT,” a packaging marked prior to January 1, 1970, with the prefix of “ICC” may be used in its place if the packaging otherwise conforms to applicable specification requirements.

(b) [Reserved]

(c) After July 2, 1982, a seamless aluminum cylinder manufactured in conformance with and for use under DOT special permit (SP) or exemption (E) 6498, 7042, 8107, 8364 or 8422 may be continued in use if marked before or at the time of the next retest with either the specification identification “3AL” immediately above the special permit or exemption number, or the DOT mark (e.g., DOT 3AL 1800) in proximity to the special permit or exemption marking.

(d) Cylinders (spheres) manufactured and marked under DOT special permit (SP) or exemption (E) 6616 prior to January 1, 1983, may be continued in use if marked before or at the time of the next retest with the specification identification “4BA” near the special permit or exemption marking.

(e) After October 1, 1984, cylinders manufactured for use under special permit (SP) or exemption (E) 6668 or 8404 may be continued in use, and must be marked “DOT-4LXXXXYY” (XXX to be replaced by the service pressure, YY to

be replaced by the letters “AL”, if applicable) in compliance with Specification 4L (§178.57 of this subchapter) on or before January 1, 1986. The “DOT-4LXXXXYY” must appear in proximity to other required special permit or exemption markings.

(f) An MC 331 cargo tank motor vehicle must conform to structural integrity requirements in §178.337-3 or to corresponding requirements in effect at the time of manufacture.

(g) A non-bulk packaging manufactured, tested, marked, and certified on or before September 30, 1996, in accordance with the applicable provisions of subparts L and M of part 178 of this subchapter in effect on September 30, 1995, may be used as authorized by this subchapter if the packaging conforms to all requirements applicable at the time of manufacture. In addition, such a packaging may be reused as authorized by §173.28 without a nominal thickness marking, if it conforms to the minimum thickness criteria prescribed in §173.28(b)(4).

(h) A packaging that is permanently marked with a special permit number, “DOT-SP” or “DOT-E,” for which the provisions of the special permit have been incorporated into this subchapter may continue to be used for the life of the packaging without obliterating or otherwise removing the special permit number.

(i) An exemption packaging or shipping paper that is permanently marked “DOT-E” prior to October 1, 2007, may continue in use as long as the exemption or special permit remains valid, unless otherwise specified in the exemption or special permit.

[Amdt. 173-3, 33 FR 14921, Oct. 4, 1968]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §173.23, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

#### § 173.24 General requirements for packagings and packages.

(a) *Applicability.* Except as otherwise provided in this subchapter, the provisions of this section apply to—

- (1) Bulk and non-bulk packagings;
- (2) New packagings and packages which are reused; and

(3) Specification and non-specification packagings.

(b) Each package used for the shipment of hazardous materials under this subchapter shall be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to transportation—

(1) Except as otherwise provided in this subchapter, there will be no identifiable (without the use of instruments) release of hazardous materials to the environment;

(2) The effectiveness of the package will not be substantially reduced; for example, impact resistance, strength, packaging compatibility, etc. must be maintained for the minimum and maximum temperatures, changes in humidity and pressure, and shocks, loadings and vibrations, normally encountered during transportation;

(3) There will be no mixture of gases or vapors in the package which could, through any credible spontaneous increase of heat or pressure, significantly reduce the effectiveness of the packaging;

(4) There will be no hazardous material residue adhering to the outside of the package during transport.

(c) *Authorized packagings.* (1) A packaging is authorized for a hazardous material only if—

(i) The packaging is prescribed or permitted for the hazardous material in a packaging section specified for that material in Column 8 of the §172.101 table and conforms to applicable requirements in the special provisions of Column 7 of the §172.101 table and, for specification packagings (but not including UN standard packagings manufactured outside the United States), the specification requirements in parts 178 and 179 of this subchapter; or

(ii) The packaging is permitted under, and conforms to, provisions contained in subparts B or C of part 171 of this subchapter or §173.3, §173.4, §173.4a, §173.4b, §173.5, §173.5a, §173.6, §173.7, §173.8, §173.27, or §176.11 of this subchapter.

(2) The use of supplementary packagings within an outer packaging (*e.g.*,